

**REMARKS**

Applicant wishes to thank the Examiner for the courtesy extended in a telephone interview conducted on June 30, 2005. Applicant also wishes to thank the Examiner for the courtesy of her telephone conference on August 16, 2005. In accordance with the conversation, applicant has clarified, as per the Examiner's instructions, the claim language as shown above. As discussed on August 16, applicant understands the Examiner has agreed that the claims as amended, in view of the arguments set forth below, have successfully overcome the prior art referenced in the Examiner's final office action, dated March 17, 2005. Applicant respectfully requests reconsideration of this application in view of the foregoing amendments and following remarks.

Claims 1-105 are currently pending in this application. Applicant has herein amended original independent claims 1, 25, 27-28, 48, 50-51, 71, 73-74, 92, 94-97, 100, 102-103 and 105. All arguments below refer to the original numbered claims to prevent confusion.

Applicant submits the following addition of dependent claims; claims 106 and 107 depend from independent claim 1, claims 108-116 depend from independent claim 25, claims 117-121 depend from independent claim 27, claims 137-138 depend from 28, claims 139-145 depend from 48, claims 146-148 depend from independent claim 50, claims 156-163 depend from independent claim 71, claims 164-168 depend from independent claim 73, and claims 173-178 depend from independent claim 92. Support for said additional dependent claims can be found in both the specification, as well as within the originally filed dependent claims.

Additionally, applicants submit the following new independent claims; 122, 149, 169 and 179. Support for said additional independent claims can be found in the specification at 15-22,

as well as in the corresponding figures 6A, 6B, and 7A-7H. Support for dependent claims 106 and 107 can be found in the specification at page 7 and page 14.

Support for the amended language in claim 1:

initially evaluating at least one system performance characteristic associated with at least one database engine, selected from one or more of system management parameters of said at least one database engine, a user-access record of said at least one database engine, and the query to determine system usage of said at least one database engine, prior to submission of the query to the database engine.

(See Claim 1) can be found throughout the specification, including pages 14-15.

Support for the following language in claim 1 “initially evaluating at least one system performance characteristic associated with at least one data base engine selected from one or more of...a user-access record of said at least one database engine” can be found throughout the specification, including pages 7-8.

Applicant submits that no new matter has been entered by way of this amendment. Support for the foregoing Amendments may be found throughout the specification, for example in originally filed Figs. 1, 6A, and 6B, as well as the corresponding description on pages 13-16 of the specification. Applicant respectfully requests reconsideration of the above-identified application, in view of the following remarks.

#### **Amendment to the Specification**

The title of this application has been amended as follows for clarification purposes:  
Method, Apparatus and System For Screening Database Queries Prior To Submission To A Database.

#### **Claim Rejections – 35 U.S.C. § 103**

Claims 1-10, 12-19, 21-37, 39-60, 62-67, 69-83, 85-89 and 91-103 have been rejected under 35 U.S.C. § 103(a), as allegedly being unpatentable over Al-omari, et al. (US Patent No. 6,438,741) (Al-omari) in view of Bedell et al. (US Patent 6,820,073 B1) (Bedell). Claims 20, 68, 90, 104 and 105 have been rejected under 35 U.S.C. § 103(a), as allegedly being unpatentable over Al-omari, et al., in view of Bedell et al. and further in view of Dreisch, Jr., et al. (US Patent Application No. 2003/0065648) (Dreisch Jr.). Claims 11, 38, 61 and 84 have been rejected under 35 U.S.C. § 103(a), as allegedly being unpatentable over Al-omari, et al., in view of Bedell et al. and further in view of Messina, et al. (US Patent Application No. 2003/0061215) (Messina).

Applicant respectfully submits that all amended claims are patentably distinct from the cited references, taken alone or in combination. Specifically, Applicant submits that all amended claims are patentable over Al-omari in view of Bedell. For at least the same reasons, all amended claims are patentable over Al-omari in view of Bedell and further in view of Dreisch and/or Messina. The claim term added is initially, which clarifies that this system evaluates the operability or performance capability of databases prior to submission of the query. The amended language of “selected from at least one of,” clarifies the system performance characteristics that are evaluated. For example, claim 1 recites *inter alia*, “initially evaluating at least one system performance characteristic associated with at least one database engine, selected from one or more of system management parameters of said at least one database engine, a user-access record of said at least one database engine, and the query to determine system usage of said at least one database engine, prior to submission of the query to the database engine....”

Applicant submits that the cited references, taken alone or in combination, do not disclose, teach or suggest the elements recited in the amended claims.

The Examiner respectfully states, in the Office Action, that “Al-omari does not explicitly teach evaluating at least one system management parameters, a user-access record.”

The Examiner then goes further to state that “[h]owever, Bedell teaches evaluating at least one system performance characteristic associated at least one database engine, system management parameters, a user-access record (column 2, lines 40-65).” The applicant respectfully traverses the examiner’s interpretation of the Bedell reference.

Specifically, Bedell does not teach, disclose or suggest evaluating system operability or performance capability of a database prior to processing a query. Bedell teaches a method of evaluating the subject matter or content of databases. (column 5, lines 31-43). Bedell does not pre-evaluate operability or performance capability of a database prior to submission of a query. Instead, Bedell focuses on reviewing multiple databases for content, extracting and combining data from such databases through the use of an analytical engine. (column 3, lines 53-64). This analytical engine then retrieves a culmination of information from multiple databases to generate a report. Simply, Bedell teaches a method of retrieving data from multiple databases responsive to one or more queries posited.

Moreover, Bedell is merely a query management and distribution system which compiles data from multiple database resources, analytic engines and other resources in a data network. (See, Bedell, Col 2, lines 12-35). Bedell does not teach, disclose or suggest evaluating the operability or performance capability of one or more databases prior to processing a query. Bedell teaches a method of query analysis based on evaluation of the query itself and the content

of the databases, rather than evaluating the operability or performance capability of database engines. Distinct from the application, Bedell focuses on whether a specific database contains the information necessary to resolve a query. (column 3, lines 53-55). Bedell then teaches a method for extracting pertinent responsive information from said databases, in order to formulate a report containing all relative information and thus generating said report.

In contrast, the application focuses on evaluating the operability or performance of database engines, i.e., hardware capabilities, processing time, memory, input/output transfer rates and disk space usage (see, specification, page 7, lines 7-9), prior to processing a query. For example, as explained in the specification databases resources are evaluated in terms of:

“(i) a number of relational databases to be utilized in fulfilling the query, (ii) a size of the fields and number of rows and/or columns to be searched for the query, (iii) an availability of hardware resources...of a system maintaining the database, (iv) a number of relational database tables to be employed for the query, (v) a limitation to be imposed on a size of a query result set, a number of rows and/or columns of data to be returned in a query result set, (vi) a cost of a previously-stored query with similar parameters and (vii) a number of function calls employed by the query.” (See specification, page 7, lines 5-12).

The Dreisch and Messina references cited by the Examiner, are further distinguishable from the instant application in that, neither prior art reference teaches, discloses or suggests evaluating operability or performance capability of a database prior to submission of a query. Thus, the examiner’s rejection of dependent claims in view of the Dreisch and Messina references is improper for the same reasons as stated above.

Specifically, the Examiner rejects dependent claims 20, 68, 90 and 104, stating although “Al-omari and Bedell do not explicitly teach offering to provide a portion of a result of

the rejected query to the user; submitting the rejected query to the server...Dreisch teaches offering to provide a portion of a result of the rejected query to the user.” Claims 20, 68, 90 and 104 depend from independent claims 1, 51, 74, and 103, respectively. As discussed above, the Al-omari and Bedell references do not render obvious independent claims 1, 51, 74, and 103, because they do not teach disclose or suggest evaluating operability or performance capability of a database prior to submission of a query. Because the Dreisch reference also does not teach, disclose or suggest evaluating the operability or performance capability of a database prior to submission of a query, there is no motivation to combine the Dreisch reference with Al-omari and Bedell to achieve the novel combination recited in dependent claims 20, 68, 90 and 104.

Also, the Examiner rejects dependent claims 11, 38, 61 and 84 as obvious over Al-omari in view of Bedell and further in view of Messina. Claims 11, 38, 61 and 84 depend from independent claims 1, 28, 51 and 74, respectively. As discussed above, the Al-omari and Bedell references do not render obvious independent claims 1, 28, 51 and 74, because they do not teach, disclose or suggest evaluating operability or performance capability of a database prior to submission of a query. Because the Messina reference also does not teach, disclose or suggest evaluating operability or performance capability of a database prior to submission of a query, there is no motivation to combine the Messina reference with Al-omari and Bedell to achieve the novel combination recited in dependent claims 11, 38, 61 and 84.

In addition, the Examiner rejects independent claim 105 as obvious over Al-omari, in view of Bedell and further in view of Dreisch. The Examiner states “Al-omari and Bedell do not explicitly teach monitoring the actual system usage of the SQL query after submission to the database engine and storing the SQL query and the actual system usage.” See

Final Office Action, page 11. The Dreisch reference teaches a monitoring system which focuses on maintaining a log of information for queries in a database. The instant application is distinguishable in that it focuses on evaluating the operability and performance capability of a database before processing. If through evaluation of a database's operability it is determined the system cannot support such a query, the query will be rejected. Neither Al-omari, Bedell nor Dreisch teach, disclose or suggest evaluation of a database's operability prior to processing a query.

Independent claim 105 is further distinguishable from Dreisch in the manner in which it requires post submission of the query. Although claim 105 requires storing the query and system usage, it is distinct from Dreisch in that Dreisch's monitoring entails a routine system of collecting and logging query implementation information. This is not the system described in claim 105. The element of claim 105 which has been called into question merely monitors system usage after submission of the query, it does not collect and log past query implementation information as seen in Dreisch.

Accordingly, Applicant respectfully submits that for at least these reasons, all of the amended independent claims are patentably distinct from the cited references, taken either alone or in combination. Applicant also submits that the amended independent claims 1, 25, 27-28, 48, 50-51, 71, 73-74, 92, 94-97, 100, 102-103 and 105, which have been amended to further clarify the evaluation aspect of the application are patentably distinct from the cited references for at least similar reasons. Further, Applicant submits that claims 2-24, 29-47, 52-70, 75-91, 98, 99, and 104, which are directly or indirectly dependent from the amended independent claims 1, 28, 51, 74, 97, and 103, respectively, are also patentably distinct from the cited references for at

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least similar reasons. Accordingly, Applicant requests withdrawal of the rejections on these grounds.

**CONCLUSION**

Applicant respectfully requests reconsideration in view of the foregoing amendments and remarks, respectfully submits that the claims as presented herein are allowable over the art of record and that the application is in condition for allowance, which action is earnestly solicited.

The Examiner is invited to contact the undersigned at the telephone number below, should that in anyway facilitate prosecution.

Applicant believes that the attached extension of time is sufficient for the timely submission of this paper. However, should any supplemental extension of time be necessary to render this filing timely, such extension is hereby petitioned and the Commissioner is hereby authorized to charge any additional fees which may be required for this paper, or credit any overpayment, to Deposit Account No. 13-4500, Order No. 4241-4001

Respectfully submitted,  
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